

**BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

STEVEN TURNIPSEED, P.A.

**Physician Assistant
License No. PA-11867**

Respondent.

Case No. 1E-2005-165274

OAH No: 2008070876

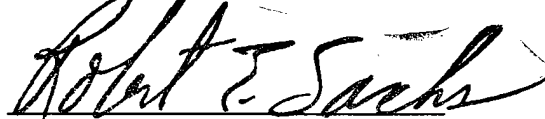
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 19, 2008.

DATED November 19, 2008.

PHYSICIAN ASSISTANT COMMITTEE



**Robert Sachs, P.A.
Chairman**

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 ABRAHAM M. LEVY, State Bar No. 189671
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-0977
Facsimile: (213) 897-6326
6

7 Attorneys for Complainant
8

9 **BEFORE THE**
10 **PHYSICIAN ASSISTANT COMMITTEE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 STEVEN TURNIPSEED

16 P.O. BOX 572247
Tarzana, CA 91357
Physician Assistant No. PA11867

17 Respondent.

Case No. 1E-2005-165274

OAH No. 2008070876

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 In the interest of a prompt and speedy settlement of this matter, consistent with the
19 public interest and the responsibility of the Physician Assistant Committee, Medical Board of
20 California of the Department of Consumer Affairs, the parties hereby agree to the following
21 Stipulated Settlement and Disciplinary Order which will be submitted to the Committee for
22 approval and adoption as the final disposition of the Accusation.

23 PARTIES

24 1. Elberta Portman (Complainant) is the Executive Officer of the Physician
25 Assistant Committee. She brought this action solely in her official capacity and is represented in
26 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Abraham M.
27 Levy, Deputy Attorney General.

28 2. Respondent Steven Turnipseed (Respondent) is represented in this

proceeding by attorney Henry Lewin, whose address is 11377 West Olympic Boulevard, Fifth Floor, Los Angeles, California 90064.

3. On or about June 19, 1986, the Physician Assistant Committee issued Physician Assistant No. PA11867 to Steven Turnipseed (Respondent). The Physician Assistant was in full force and effect at all times relevant to the charges brought in Accusation No. 1E-2005-165274 and will expire on November 30, 2007, unless renewed.

JURISDICTION

4. Accusation No. 1E-2005-165274 was filed before the Physician Assistant Committee (Committee) for the Medical Board of California, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 27, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1E-2005-165274 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1E-2005-165274. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in
3 Accusation No. 1E-2005-165274, if proven at a hearing, constitute cause for imposing discipline
4 upon his Physician Assistant.

5 9. For the purpose of resolving the Accusation without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up
8 his right to contest those charges.

9 10. Respondent agrees that his Physician Assistant is subject to discipline and
10 he agrees to be bound by the Physician Assistant Committee (Committee)'s imposition of
11 discipline as set forth in the Disciplinary Order below.

12 RESERVATION

13 11. The admissions made by Respondent herein are only for the purposes of
14 this proceeding, or any other proceedings in which the Physician Assistant Committee, Medical
15 Board of California, or other professional licensing agency is involved, and shall not be
16 admissible in any other criminal or civil proceeding.

17 CONTINGENCY

18 12. This stipulation shall be subject to approval by the Physician Assistant
19 Committee. Respondent understands and agrees that counsel for Complainant and the staff of
20 the Physician Assistant Committee may communicate directly with the Committee regarding this
21 stipulation and settlement, without notice to or participation by Respondent or his counsel. By
22 signing the stipulation, Respondent understands and agrees that he may not withdraw his
23 agreement or seek to rescind the stipulation prior to the time the Committee considers and acts
24 upon it. If the Committee fails to adopt this stipulation as its Decision and Order, the Stipulated
25 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
26 be inadmissible in any legal action between the parties, and the Committee shall not be
27 disqualified from further action by having considered this matter.

28 13. The parties understand and agree that facsimile copies of this Stipulated

1 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
2 force and effect as the originals.

3 14. In consideration of the foregoing admissions and stipulations, the parties
4 agree that the Committee may, without further notice or formal proceeding, issue and enter the
5 following Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Physician Assistant No. PA11867 issued to
8 Respondent Steven Turnipseed (Respondent) is revoked. However, the revocation is stayed and
9 Respondent is placed on probation for two (2) years on the following terms and conditions.

10 1. **EDUCATION COURSE** Within 60 days of the effective date of the
11 decision, respondent shall submit to the committee or its designee for its prior approval an
12 educational program or course from an accredited program which shall not be less than 6 hours,
13 including 1 hour of pediatric pharmacology, of Category 1 CME 1 hour of pediatric
14 pharmacology. The education courses shall be aimed at correcting any areas of deficient practice
15 or knowledge. The course shall be Category I certified, limited to classroom, conference, or
16 seminar settings. Respondent shall successfully complete the course within the first year of
17 probation.

18 Respondent shall pay the cost of the course.

19 Respondent shall submit a certification of successful completion to the committee
20 or its designee within 15 days after completing the course.

21 2. **APPROVAL OF SUPERVISING PHYSICIAN** Within 30 days of the
22 effective date of this decision, respondent shall submit to the committee or its designee for its
23 prior approval the name and license number of the supervising physician and a practice plan
24 detailing the nature and frequency of supervision to be provided. Respondent shall not practice
25 until the supervising physician and practice plan are approved by the committee or its designee.

26 Respondent shall have the supervising physician submit quarterly reports to the
27 committee or its designee.

28 If the supervising physician resigns or is no longer available, respondent shall,

1 within 15 days, submit the name and license number of a new supervising physician for approval.

2 3. NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN

3 Respondent shall notify his/her current and any subsequent employer and supervising
4 physician(s) of the discipline and provide a copy of the accusation, decision, and order to each
5 employer and supervising physician(s) during his/her period of probation, at onset of that
6 employment. Respondent shall ensure that each employer informs the committee or its designee,
7 in writing within 30 days, verifying that the employer and supervising physician(s) have received
8 a copy of Accusation, Decision, and Order.

9 4. OBEY ALL LAWS Respondent shall obey all federal, state, and local
10 laws, and all rules governing the practice of medicine as a physician assistant in California and
11 remain in full compliance with any court ordered criminal probation, payments, and other orders.

12 5. QUARTERLY REPORTS Respondent shall submit quarterly
13 declarations under penalty of perjury on forms provided by the committee or its designee, stating
14 whether there has been compliance with all the conditions of probation.

15 6. OTHER PROBATION REQUIREMENTS Respondent shall comply with
16 the committee's probation unit. Respondent shall, at all times, keep the committee and probation
17 unit informed of respondent's business and residence addresses. Changes of such addresses shall
18 be immediately communicated in writing to the committee and probation unit. Under no
19 circumstances shall a post office box serve as an address of record, except as allowed by
20 California Code of Regulations 1399.523.

21 Respondent shall appear in person for an initial probation interview with
22 committee or its designee within 90 days of the decision. Respondent shall attend the initial
23 interview at a time and place determined by the committee or its designee.

24 Respondent shall, at all times, maintain a current and renewed physician assistant
25 license.

26 Respondent shall also immediately inform probation unit, in writing, of any travel
27 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
28 than thirty (30) days.

1 7. FAILURE TO PRACTICE AS A PHYSICIAN ASSISTANT –
2 CALIFORNIA RESIDENT In the event respondent resides in California and for any reason
3 respondent stops practicing as a physician assistant in California, respondent shall notify the
4 committee or its designee in writing within 30 calendar days prior to the dates of non-practice
5 and return to practice. Any period of non-practice within California, as defined in this condition,
6 will not apply to the reduction of the probationary term and does not relieve respondent of the
7 responsibility to comply with the terms and conditions of probation. Non-practice is defined as
8 any period of time exceeding 30 calendar days in which respondent is not practicing as a
9 physician assistant.

10 All time spent in a clinical training program that has been approved by the
11 committee or its designee, shall be considered time spent in the practice of medicine. For
12 purposes of this condition, non-practice due to a committee ordered suspension or in compliance
13 with any other condition or probation, shall not be considered a period of non-practice.

14 Respondent's license shall be automatically canceled if, for a total of two years,
15 respondent resides in California and fails to practice as a physician assistant.

16 8. INTERVIEW WITH MEDICAL CONSULTANT Respondent shall
17 appear in person for interviews with the committee's medical or expert physician assistant
18 consultant upon request at various intervals and with reasonable notice.

19 9. TOLLING FOR OUT-OF -STATE PRACTICE OR RESIDENCE The
20 period of probation shall not run during the time respondent is residing or practicing outside the
21 jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of
22 California to reside or practice elsewhere, including federal facilities, respondent is required to
23 immediately notify the committee in writing of the date of departure and the date of return, if
24 any.

25 10. INITIAL PROBATION INTERVIEW Respondent shall appear in person
26 for an initial interview with a designee of the Physician Assistant Committee within 90 days of
27 the final decision. Respondent shall subject himself to an initial interview at a time and place
28 determined by the committee or its designee.

1 11. UNANNOUNCED CLINICAL SITE VISIT The committee or its
2 designee may make unannounced clinical site visits at any time to ensure that respondent is
3 complying with all terms and conditions of probation.

4 12. CONDITION FULFILLMENT A course, evaluation, or treatment
5 completed after the acts that gave rise to the charges in the accusation but prior to the effective
6 date of the decision may, in the sole discretion of the committee or its designee, be accepted
7 towards the fulfillment of the condition.

8 13. COMPLETION OF PROBATION Respondent shall comply with all
9 financial obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to
10 the completion of probation.

11 Upon successful completion of probation, respondent's license will be fully
12 restored.

13 14. VIOLATION OF PROBATION If respondent violates probation in any
14 respect, the committee, after giving respondent notice and the opportunity to be heard, may
15 revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition
16 to revoke probation is filed against respondent during probation, the committee shall have
17 continuing jurisdiction until the matter is final, and the period of probation shall be extended
18 until the matter is final.

19 15. COST RECOVERY The respondent is hereby ordered to reimburse the
20 Physician Assistant Committee the amount of \$ 5,000.00 within 90 days from the effective date
21 of this decision for its investigative costs. Failure to reimburse the committee's costs for its
22 investigation shall constitute a violation of the probation order, unless the committee agrees in
23 writing to payment by an installment plan because of financial hardship. The filing of bankruptcy
24 by the respondent shall not relieve the respondent of his/her responsibility to reimburse the
25 committee for its investigative costs.

26 16. PROBATION MONITORING COSTS Respondent shall pay the costs
27 associated with probation monitoring each and every year of probation, as designated by the
28 committee, which may be adjusted on an annual basis. The costs shall be made payable to the

1 Physician Assistant Committee and delivered to the committee no later than January 31 of each
2 calendar year.

3 17. VOLUNTARY LICENSE SURRENDER Following the effective date of
4 this probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise
5 unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his
6 license to the committee. The committee reserves the right to evaluate the respondent's request
7 and to exercise its discretion whether to grant the request, or to take any other action deemed
8 appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered
9 license, respondent will no longer be subject to the terms and conditions of probation.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and
12 have fully discussed it with my attorney, Henry Lewin. I understand the stipulation and the effect
13 it will have on my Physician Assistant. I enter into this Stipulated Settlement and Disciplinary
14 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
15 of the Physician Assistant Committee, Medical Board of California.

16 DATED: 10/15/08

17 

18 STEVEN TURNIPSEED (Respondent)
19 Respondent

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1 I have read and fully discussed with Respondent Steven Turnipseed the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4 DATED: Oct. 20, 2008

5
6 
HENRY LEWIN
7 Attorney for Respondent

8
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Physician Assistant Committee, Medical Board of California
12 of the Department of Consumer Affairs.

13
14 DATED: 10/21/08

15 EDMUND G. BROWN JR., Attorney General
16 of the State of California

17 ROBERT MCKIM BELL
18 Supervising Deputy Attorney General

19
20 
ABRAHAM M. LEVY
21 Deputy Attorney General

22 Attorneys for Complainant

23 DOJ Matter ID: LA2008500166
24 60345325.wpd

Exhibit A

Accusation No. 1E-2005-165274

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 ABRAHAM M. LEVY, State Bar No. 189671
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-0977
Facsimile: (213) 897-6326
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **PHYSICIAN ASSISTANT COMMITTEE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 1E-2005-165274

14 STEVEN TURNIPSEED

A C C U S A T I O N

15 P.O. Box 572247
16 Tarzana, CA 91357

17 Physician Assistant No. PA11867,

18 Respondent.

19 Complainant alleges:

PARTIES

20 1. Elberta Portman (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Physician Assistant Committee, Department of
22 Consumer Affairs.

23 2. On or about June 19, 1986, the Physician Assistant Committee issued
24 Physician Assistant Number PA11867 to Steven Turnipseed (Respondent). The Physician
25 Assistant's license was in full force and effect at all times relevant to the charges brought herein
26 and is set to expire on November 30, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Physician Assistant Committee (Committee) for the Medical Board of California, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3527 of the Code states:

“(a) The committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

“(b) The committee may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

“(c) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician assistant, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

1 “(d) Notwithstanding subdivision (c), the Division of Medical
2 Quality of the Medical Board of California, in conjunction with an action
3 it has commenced against a physician and surgeon, may, in its own
4 discretion and without the concurrence of the board, order the suspension
5 or revocation of, or the imposition of probationary conditions upon, an
6 approval to supervise a physician assistant, after a hearing as required in
7 Section 3528, for unprofessional conduct, which includes, but is not
8 limited to, a violation of this chapter, a violation of the Medical Practice
9 Act, or a violation of the regulations adopted by the committee or the
10 board.

11 “(e) The committee may order the denial of an application for, or
12 the suspension or revocation of, or the imposition of probationary
13 conditions upon, a physician assistant license, after a hearing as required in
14 Section 3528 for unprofessional conduct which includes, except for good
15 cause, the knowing failure of a licensee to protect patients by failing to
16 follow infection control guidelines of the committee, thereby risking
17 transmission of blood-borne infectious diseases from licensee to patient,
18 from patient to patient, and from patient to licensee. In administering this
19 subdivision, the committee shall consider referencing the standards,
20 regulations, and guidelines of the State Department of Health Services
21 developed pursuant to Section 1250.11 of the Health and Safety Code and
22 the standards, regulations, and guidelines pursuant to the California
23 Occupational Safety and Health Act of 1973 (Part 1 (commencing with
24 Section 6300) of Division 5 of the Labor Code) for preventing the
25 transmission of HIV, Hepatitis B, and other blood-borne pathogens in
26 health care settings. As necessary, the committee shall consult with the
27

1 California Medical Board, the Board of Podiatric Medicine, the Board of
2 Dental Examiners, the Board of Registered Nursing, and the Board of
3 Vocational Nurse and Psychiatric Technician Examiners, to encourage
4 appropriate consistency in the implementation of this subdivision.

5 "The committee shall seek to ensure that licensees are informed of
6 the responsibility of licensees and others to follow infection control
7 guidelines, and of the most recent scientifically recognized safeguards for
8 minimizing the risk of transmission of blood-borne infectious diseases.

9 "..."

10 5. California Code of Regulations, title 16, section 1399.525, states:

11 "For the purposes of the denial, suspension or revocation of a license or
12 approval pursuant to division 1.5 (commencing with section 475) of the
13 code, a crime or act shall be considered to be substantially related to the
14 qualifications, functions or duties of a person holding a license or approval
15 under the Physician Assistant Practice Act if to a substantial degree it
16 evidences present or potential unfitness of a person holding such a license
17 or approval to perform the functions authorized by the license or approval
18 in a manner consistent with the public health, safety or welfare. Such
19 crimes or acts shall include, but are not limited to, the following:

20 "(a) Violating or attempting to violate, directly or indirectly, or
21 assisting in or abetting the violation of, or conspiring to violate any
22 provision or term of the Medical Practice Act.

23 "(b) Violating or attempting to violate, directly or indirectly, or
24 assisting in or abetting the violation of, or conspiring to violate any
25 provision or term of the Physician Assistant Practice Act.

26 "(c) A conviction of child abuse.

1 “(d) Conviction as a sex offender.

2 “(e) Any crime or act involving the sale, gift, administration, or
3 furnishing of narcotics or dangerous drugs or dangerous devices, as
4 defined in Section 4022 of the code.

5 “(f) Conviction for assault and/or battery.

6 “(g) Conviction of a crime involving lewd conduct.

7 “(h) Conviction of a crime involving fiscal dishonesty.

8 “(i) Conviction for driving under the influence of drugs or alcohol.

9 “...”

10 6. Section 3502 of the Code states:

11 “(a) Notwithstanding any other provision of law, a physician
12 assistant may perform those medical services as set forth by the
13 regulations of the board when the services are rendered under the
14 supervision of a licensed physician and surgeon or of physicians and
15 surgeons approved by the board, except as provided in Section 3502.5.

16 “(b) Notwithstanding any other provision of law, a physician
17 assistant performing medical services under the supervision of a physician
18 and surgeon may assist a doctor of podiatric medicine who is a partner,
19 shareholder, or employee in the same medical group as the supervising
20 physician. A physician assistant who assists a doctor of podiatric
21 medicine pursuant to this subdivision shall do so only according to
22 patient-specific orders from the supervising physician and surgeon.

23 “The supervising physician and surgeon shall be physically
24 available to the physician assistant for consultation when such assistance is
25 rendered. A physician assistant assisting a doctor of podiatric medicine

26 ///

1 shall be limited to performing those duties included within the scope of practice of
2 a doctor of podiatric medicine.

3 “(c) No medical services may be performed under this chapter in
4 any of the following areas:

5 “(1) The determination of the refractive states of the human eye, or
6 the fitting or adaptation of lenses or frames for the aid thereof.

7 “(2) The prescribing or directing the use of, or using, any optical
8 device in connection with ocular exercises, visual training, or orthoptics.

9 “(3) The prescribing of contact lenses for, or the fitting or
10 adaptation of contact lenses to, the human eye.

11 “(4) The practice of dentistry or dental hygiene or the work of a
12 dental auxiliary as defined in Chapter 4 (commencing with Section 1600).

13 “(d) This section shall not be construed in a manner that shall
14 preclude the performance of routine visual screening as defined in Section
15 3501.

16 “...”

17 7. Section 2234 reads as follows:

18 “The Division of Medical Quality shall take action against any licensee
19 who is charged with unprofessional conduct. In addition to other
20 provisions of this article, unprofessional conduct includes, but is not
21 limited to, the following:

22 “(a) Violating or attempting to violate, directly or indirectly, assisting in or
23 abetting the violation of, or conspiring to violate any provision of this
24 chapter.

25 “(b) Gross negligence.

26 ///

1 “(c) Repeated negligent acts. To be repeated, there must be two or more
2 negligent acts or omissions. An initial negligent act or omission followed
3 by a separate and distinct departure from the applicable standard of care
4 shall constitute repeated negligent acts.

5 “(1) An initial negligent diagnosis followed by an act or omission
6 medically appropriate for that negligent diagnosis of the patient shall
7 constitute a single negligent act.

8 “(2) When the standard of care requires a change in the diagnosis,
9 act, or omission that constitutes the negligent act described in
10 paragraph (1), including, but not limited to, a reevaluation of the
11 diagnosis or a change in treatment, and the licensee's conduct
12 departs from the applicable standard of care, each departure
13 constitutes a separate and distinct breach of the standard of care.

14 “(d) Incompetence.

15 “(e) The commission of any act involving dishonesty or corruption which
16 is substantially related to the qualifications, functions, or duties of a
17 physician and surgeon.

18 “(f) Any action or conduct which would have warranted the denial of a
19 certificate.

20 “(g) The practice of medicine from this state into another state or country
21 without meeting the legal requirements of that state or country for the
22 practice of medicine. Section 2314 shall not apply to this subdivision. This
23 subdivision shall become operative upon the implementation of the
24 proposed registration program described in Section 2052.5.

25 “...”

26 ///

1 8. Section 125.3 of the Code provides that the Board may request the
2 administrative law judge to direct a licensee found to have committed a violation or violations
3 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation.

4 FIRST CAUSE FOR DISCIPLINE

5 (Gross Negligence)
6 (Business and Professions Code § 2234(b))

7 9. Respondent is subject to disciplinary action under Section 2234(b) for
8 gross negligence. The circumstances are as follows:

9 10. On February 18, 2001, Respondent was working at Centro Medico
10 Urgente (clinic) in North Hollywood as a physician assistant.

11 11. On this date, 2-year old B.S. was brought to the clinic for evaluation. B.S.
12 had a temperature for two days, seven episodes of diarrhea on February 17, and four episodes of
13 vomiting in two days.

14 12. On February 18, 2001 Respondent conducted a history and performed a
15 physical examination of B.S. in order to treat him.

16 13. As part of this physical examination Respondent noted that B.S.'s "right
17 red tympanic membrane," or ear drum, was "tender." In addition, he documented that B.S. had
18 erythema, or redness in the skin. Otherwise, he found no abnormal findings.

19 14. Respondent diagnosed B.S. as suffering from "acute otitis media," or
20 inflammation of the middle ear, and gastritis, or inflammation of the stomach.

21 15. His treatment and plan for B.S. involved the prescription of an
22 intramuscular injection of 300 milligrams (mg), or 1 cubic centimeter (cc) of an antibiotic,
23 Lincocin or Lincomycin, as it is known by its generic name, Motrin in the dose of 5 cc,
24 Ibuprofen, Pepto-Bismol (bismuth subsalicylate or "bismuth") in the dosage amount of two
25 tablespoons every 30 minutes for 8 doses, Tebamide in 100 mg suppository form, and Pedialyte.
26 These items were dispensed to B.S. on February 18, 2001 at the clinic.

1 16. In addition, Respondent prescribed for B.S. a second antibiotic,
2 Amoxicillin, in the dosage amount of 250 mg.

3 17. With respect to the bismuth dosage prescribed to B.S. on February 18,
4 2001, Respondent disputes that he prescribed two tablespoons of bismuth to B.S. Respondent
5 stated in a declaration he signed on April 5, 2005 that he prescribed two teaspoons of bismuth
6 every 30 minutes for 8 doses, or a total of 16 teaspoons, 80 milliliter (ml) total.

7 18. In contrast, the prescription read two tablespoons, or 240 cc total, to be
8 taken eight times every half hour.

9 19. Later, on February 18, 2001, after B.S. was given by his mother two
10 tablespoons of bismuth every half hour between 7 o' clock at night and 10 o' clock at night, B.S.
11 started shaking and his eyes rolled back into his head.

12 20. His parents called paramedics and he was taken to Verdugo Hills
13 Hospital.

14 21. According to medical records from this hospital, B.S. presented to the
15 admitting doctor, Julia Cameron, M.D., with a rapid heart rate, an increased rate of respiration
16 and had a high body temperature.

17 22. Dr. Cameron gave as her diagnostic impression of B.S. that he suffered
18 from an overdose of bismuth toxicity and metabolic acidosis.

19 23. Dr. Cameron commented that bismuth toxicity can cause gradual
20 degeneration of brain function, a lack of coordination of a child's voluntary movements, seizures,
21 cardiovascular collapse with arrhythmias, intracerebral swelling, low potassium, increased
22 coagulation studies and a low platelet count in the blood.

23 24. On February 19, 2001, B.S. was transported by ambulance from Verdugo
24 to Children's Hospital of Los Angeles and that hospital's pediatric intensive care unit.

25 25. A CT scan of B.S.'s head, taken at Children's Hospital, revealed
26 extensive diffuse swelling of the brain involving both cerebral hemispheres with effacement of
27

1 the cortical fossae, or depressions on the floor of the cranial cavity, and basal cisterns as well as
2 the fourth ventricle.

3 26. Regardless whether the dosage amount was two tablespoons or two
4 teaspoons, as prescribed to B.S. by Respondent, the dosage of bismuth was excessive and did not
5 follow the standard of care for treating B.S.

6 27. Respondent's prescription of either two tablespoons of bismuth to B.S. or
7 two teaspoons to him was an extreme departure from the standard of care.

8 28. Therefore, Respondent's action to prescribe bismuth constitutes gross
9 negligence consistent with Section 2234(b).

10 SECOND CAUSE FOR DISCIPLINE

11 (Gross Negligence)
12 (Business and Professions Code § 2234(b))

13 29. Complainant incorporates paragraphs number 10 through 26 as if fully
14 contained herein.

15 30. Respondent is further subject to disciplinary action under section 2234(b)
16 for gross negligence.

17 31. Bismuth should not be given to children or teenagers who have or are
18 recovering from flu-like symptoms as it may cause Reye's syndrome, a diffuse encephalitis or
19 brain inflammation.

20 32. Bismuth should not be given to a 2-year old suffering from "acute otitis
21 media," and gastritis.

22 33. B.S. presented to Respondent with flu-like symptoms: He was suffering
23 from nausea, diarrhea, had tenderness in his right tympanic membrane, erythema, and had a
24 fever.

25 34. Respondent diagnosed B.S. as suffering from "acute otitis media," and
26 gastritis.

1 35. Considering his condition, Respondent should not have prescribed
2 bismuth to B.S.

3 36. Respondent, thus, did not follow the standard of care for a 2-year old with
4 flu-like symptoms when he prescribed bismuth to B.S.

5 37. Respondent, thus, did not follow the standard of care for a 2-year old with
6 "acute otitis media," and gastritis.

7 38. Respondent's action to prescribe bismuth to B.S. while he suffered from
8 flu-like symptoms was an extreme departure from the standard of care which Respondent owed
9 to B.S.

10 39. Respondent's action to prescribe bismuth to B.S. while he suffered from
11 otitis media and/or acute gastritis was an extreme departure from the standard of care which
12 Respondent owed to B.S.

13 40. Accordingly, Respondent's action to prescribe bismuth to B.S. while he
14 suffered from flu-like symptoms and/or acute otitis media and/or acute gastritis constitutes gross
15 negligence consistent with Section 2234(b).

16 THIRD CAUSE FOR DISCIPLINE

17 (Gross Negligence)
18 (Business and Professions Code § 2234(b))

19 41. Petitioner incorporates paragraphs 10 through 26 as if fully contained
20 herein.

21 42. Respondent is further subject to disciplinary action under section 2234(b)
22 for gross negligence.

23 43. Respondent failed to follow the standard of care for a child with acute
24 otitis media and/or acute gastritis when Respondent prescribed for B.S. an intramuscular
25 injection of the antibiotic, Lincomycin. It was not, thus, medically necessary that B.S. be given
26 Lincomycin.

1 44. Accordingly, Respondent's action to prescribe an intramuscular injection
2 of Lincomycin to B.S. while he suffered from flu-like symptoms including nausea, vomiting and
3 diarrhea and/or acute otitis media and/or acute gastritis constitutes gross negligence consistent
4 with Section 2234(b).

5 FOURTH CAUSE FOR DISCIPLINE

6 (Repeated Negligent Acts)
7 (Business and Professions Code § 223(c)

8 45. Petitioner incorporates paragraphs 10 through 26 as if fully contained
9 herein.

10 46. Respondent is subject to disciplinary action under section 2234(c) for
11 committing repeated negligent acts with regard to his documentation of B.S.'s condition.

12 47. Respondent repeatedly failed to record B.S.'s condition in his medical
13 chart to reflect the extent and nature of the physical examination he performed.

14 48. Respondent recorded his physical examination of B.S. on two separate
15 occasions, represented by two separate versions of the same document: Version 1 and Version 2.

16 49. Respondent completed Version 1 on February 19, 2001. This document
17 contained no check marks under the physical examination preprinted entries in order to reflect
18 that a physical examination for each area was "done."

19 50. Respondent completed Version 2 sometime after B.S.'s visit. This
20 document contains check marks under the physical examination preprinted entries near each area
21 of the body. This version, also, contains additional notations under Respondent's initial writing.

22 51. Otherwise, in both versions, the date and signatures are the same.

23 52. First, in either version, Respondent failed to document B.S.'s pulse rate.

24 53. This failure reflects a simple departure from the standard of care.

25 54. Second, in either version, Respondent failed to document moisture in
26 B.S.'s oral mucosa.

27 55. This failure reflects a simple departure from the standard of care.

1 56. Third, in either version, Respondent failed to record B.S.'s skin turgor, or
2 elasticity, in order to evaluate B.S. for dehydration.

3 57. This failure represents a simple departure from the standard of care.

4 58. Fourth, Respondent failed to date and initial his late entries in Version 2 to
5 reflect that the entries were written after the information initially recorded during B.S.'s February
6 18, 2001 visit to the clinic.

7 59. This failure represents a simple departure from the standard of care.

8 60. Respondent, therefore, repeated four negligent acts by failing to document
9 B.S.'s chart to reflect the nature of the physical examination he performed and to document the
10 changes he made to this chart after the visit. Accordingly, consistent with Section 2234(c)
11 Respondent is subject to discipline.

12 **FACTORS IN AGGRAVATION**

13 61. To determine the degree of discipline, if any, to be imposed on respondent,
14 Complainant alleges that on or about July 6, 2004, in a prior action entitled, "In the Matter of the
15 Accusation Against Steven Duvall Turnipseed, P.A.," Case No. 1E-1999-98426 the Physician
16 Assistant Committee revoked respondent's license, with revocation stayed, placed the license on
17 three years probation with a prior condition of having an approved practice monitor before
18 practicing and imposed terms and conditions on his license, including having to successfully
19 completing the Physician Assessment and Clinical Education Program (PACE), a medical record
20 keeping course and prohibited from performing surgical abortions. Respondent completed his
21 probation on or about July 6, 2007. The Decision is now final and is incorporated by reference as
22 if fully set forth.


23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein
25 alleged, and that following the hearing, the Physician Assistant Committee issue a decision:

26 ///

- 1 1. Revoking or suspending Physician Assistant Number PA11867, issued to
2 Steven Turnipseed;
3 2. Revoking or suspending Physician Assistant Number PA 11867, issued to
4 Steven Turnipseed;
5 3. Ordering Steven Turnipseed to pay the Physician Assistant Committee the
6 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
7 Professions Code section 125.3;
8 4. Taking such other and further action as deemed necessary and proper.
9

10 DATED: March 27, 2008
11

12 
13 ELBERTA PORTMAN
14 Executive Officer
15 Physician Assistant Committee
16 Department of Consumer Affairs
17 State of California
18 Complainant

19 LA2008500166

20 Turnipseed accusation.wpd
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